

being radially inward of the siphon outlet, said siphon traveling radially outward to a point radially outward of said liquid-dispensing chamber then radially inward to a point radially inward of said siphon inlet and then radially outward to said siphon outlet; the rotor further comprising:

a cuvette containing reagents necessary for the analysis of a biological sample, wherein said cuvette is radially outward of said liquid-dispensing chamber and said liquid-receiving chamber, and;

a distribution ring which permits flow of a liquid to said cuvette from an output siphon connected to the liquid-receiving chamber.

6. A centrifugal rotor comprising:

a rotor body comprising a liquid-dispensing chamber, a liquid-receiving chamber, and a siphon;

the siphon being connected to the liquid-dispensing chamber through a siphon inlet and connected to the liquid-receiving chamber through a siphon outlet, the siphon inlet being radially inward of the siphon outlet, said siphon traveling radially outward to a point radially outward of said liquid-dispensing chamber then radially inward to a point radially inward of said siphon inlet and then radially outward to said siphon outlet; the rotor further comprising:

a distribution ring positioned radially outward of the liquid receiving chamber; and

a delivery channel connecting the distribution ring to the liquid-receiving chamber, said distribution ring being connected to a cuvette through an inlet channel.

In The Specification

At page 4, line 11 insert "or inward" after "radially outward".

At page 4, line 18, delete from "in addition" to the end of line.

At page 4, delete lines 19-24.

At page 5, delete lines 1-2.

A. Regarding the Amendments and Specification Objections

Claims 5 and 6 have been amended to recite that the siphon travels radially outward of the liquid-dispensing chamber first before traveling radially inward of the siphon inlet and then radially outward to the siphon outlet. The amendments are supported by the specification, *e.g.*, the amended structure is specifically illustrated in Figure 1 of the subject application and Figure 2 of the parent application.

In addition, claims 5 and 6 have been amended to delete the recitation of “containing a liquid” for the liquid-dispensing chamber. The amendments is supported by the specification since in the specification the liquid-dispensing chamber is described as either empty or containing a liquid.

No new matter is added by the amendments. Entering of the amendments is respectfully requested.

The specification is objected to as allegedly failing to provide proper antecedent basis for the claimed subject matter. The Office Action states that claims 7 and 8 do not have antecedent basis in the specification and references MPEP §608.01(o) as its basis for the objection.

Applicants respectfully point out that claims are part of the specification, thus do not require antecedent basis in the specification. In addition, claims 7 and 8 do not contain new terminology or nomenclature, thus no amendment to the specification is required according to MPEP §608.01(o). Applicants acknowledge that there is no new matter rejection.

The specification is also objected to because of the informalities. Applicants have amended the specification based on the Examiner’s suggestion to clarify the description of the invention. Entering of these amendments and withdrawal of the objections are respectfully requested.

B. Affirmation of Election

Applicants hereby elect Group II, claims 5-10, with traverse and expressly reserve the right to pursue non-elected claims in a separate application.

C. Rejections under 35 U.S.C. § 102

1. *The rejection of claims 6, 10 under 35 U.S.C. § 102(a), as allegedly being anticipated by Tech Update is respectfully traversed.*

The Office Action states that “[t]he invention as claimed is shown in the Figure” in Tech Update. Applicants respectfully point out that the figure in Tech Update does not disclose every limitation recited in the claims. Specifically, claims 6 and 10 as amended recite that

...the siphon being connected to the liquid-dispensing chamber through a siphon inlet and connected to the liquid-receiving chamber through a siphon outlet,

the siphon inlet being radially inward of the siphon outlet,

said siphon traveling radially outward to a point radially outward of said liquid-dispensing chamber then radially inward to a point radially inward of said siphon inlet and then radially outward to said siphon outlet ...

The figure of Tech Update does not describe the siphons and liquid chambers, especially how the siphons are connected to each chamber and how the liquid travels within each siphon. For example, the figure is silent as to which chamber is the receiving chamber, which chamber is the dispensing chamber, which part is the siphon inlet, and which part is the siphon outlet. The figure also fails to illustrate or convey to one skilled in the art how each siphon interacts with each chamber and how each siphon travels. The text in Tech Update does not provide any information with respect to the siphons and the liquid chambers either. Therefore, Tech Update does not describe every element of the claimed invention, thus does not anticipate claims 6 and 10. Withdrawal of the rejection is respectfully requested.

2. The rejection of claims 5-6 and 10 under 35 U.S.C. § 102(a), as allegedly being anticipated by Abaxis Inc. is respectfully traversed.

The Office Action cites the figures in Abaxis company brochure as disclosure by others that are not inventors of the present invention. Applicants respectfully submit that the cited figures in the company brochure are not disclosure by others, but disclosure by the inventors of the present invention. Specifically, applicants submit that the inventors were employees of Abaxis at the time of the invention and publication of the company brochure. The inventors of the present invention had fully disclosed the present invention to its employer, Abaxis, in making

the cited figures of the company brochure. The inventors of the present invention have also assigned the entire interest of the present invention to their employer, Abaxis Inc. Therefore, unless the Examiner can provide any specific evidence to show that the cited figures in the company brochure were made by others that are not inventors of the present invention, it is the applicants' position that the cited figures of the company brochure are inventors' own disclosure, thus can not be used as basis for 102(a) rejection. Withdrawal of the rejection is respectfully requested.

3. The rejection of claims 5-6 under 35 U.S.C. § 102(e), as allegedly being anticipated by Schembri ('233) is respectfully traversed.

The Office Action cites figure 2 of the '233 patent as its basis for the rejection. Applicants respectfully point out that figure 2 of the '233 patent does not disclose every element of the claimed invention. Specifically claim 5 recites a distribution ring "which permits flow of a liquid to said cuvette from an output siphon connected to the liquid-receiving chamber." Figure 2 of the '233 patent only shows a passage 62 connecting separation chamber 46 and collection chamber 60, and does not disclose an output siphon as required by claim 5. Thus claim 5 is not anticipated by the '233 patent.

Furthermore, claims 5 and 6 recite that "...said siphon traveling radially outward to a point radially outward of said liquid-dispensing chamber then radially inward to a point radially inward of said siphon inlet and then radially outward to said siphon outlet" Figure 2 of the '233 patent does not specifically disclose such feature recited in the claims, *e.g.*, figure 2 does not show that siphon 50 travels radially outward of the liquid-dispensing chamber first before traveling radially inward to the siphon inlet and then radially outward to the siphon outlet as required by claims 5 and 6. In contrast, figure 2 shows that the liquid travels from the liquid-dispensing chamber directly radially inward into the siphon inlet. Therefore, claims 5 and 6 are not anticipated by the '233 patent.

Withdrawal of the rejection is respectfully requested.

4. *The rejection of claims 5-6 and 10 under 35 U.S.C. § 102(e), as allegedly being anticipated by Burd et al., ('053) is respectfully traversed.*

The Office Action cites figure 5 of the '053 patent as its basis for the rejection. Applicants respectfully point out that figure 5 of the '053 patent does not disclose every element of the claimed invention. Specifically claims 5-6 and 10 recite that "...said siphon traveling radially outward to a point radially outward of said liquid-dispensing chamber then radially inward to a point radially inward of said siphon inlet and then radially outward to said siphon outlet" Figure 5 of the '053 patent does not specifically disclose such features recited in the claims, *e.g.*, figure 5 does not show that siphon 98 travels radially outward of the liquid-dispensing chamber first before traveling radially inward to the siphon inlet and then radially outward to the siphon outlet as required by claims 5-6 and 10. In contrast, figure 5 shows that the liquid travels from the liquid-dispensing chamber directly radially inward into the siphon inlet. Therefore, claims 5-6 and 10 are not anticipated by the '053 patent.

Withdrawal of the rejection is respectfully requested.

D. Rejections under 35 U.S.C. § 103

1. *The rejection of claims 7-9 under 35 U.S.C. § 103(a), as allegedly being obvious over Tech Update is respectfully traversed.*

The Office Action states that "Tech Update fails to teach the channel dimensions." Applicants respectfully point out that Tech Update not only fails to teach the channel dimensions, but also fails to show how the siphons are connected to each chamber and how the liquid travels within each siphon, *e.g.*, Tech Update does not enable the invention as claimed in claims 7-9. For example, Tech Update is silent as to which chamber is the receiving chamber, which chamber is the dispensing chamber, which part is the siphon inlet and which part is the siphon outlet. Tech Update also fails to convey or suggest to one skilled in the art how each siphon interacts with each chamber and how each siphon travels. In the absence of any teaching, it would not be obvious to one skilled in the art to construct the siphon and the chambers as recited in the claims.

Furthermore, Tech Update is silent as to the cross sectional areas of the inlet channel, delivery channel, and the relationship thereof. Tech Update also fails to teach or suggest how to use the dimensions of the cross sectional areas of the inlet channel and delivery channel to

facilitate the liquid flow and air escape in the system. In the absence of any teaching or suggestion, it would be undue for one skilled in the art to experiment on his or her own in deciding what would be appropriate cross sectional dimensions for the inlet channel and the delivery channel, especially what would be the suitable relationship and ratio between the inlet channel and the delivery channel. For example, one skilled artisan could have thought that the cross sectional area of the inlet channel should be the same dimension as that of the delivery channel according to the figure of Tech Update, and would not have been motivated to try other dimensions.

Even if for the purpose of discussion we suppose that one skilled artisan might have decided to try other dimensions, he or she could have chosen sets of dimensions where the cross sectional area of the inlet channel is smaller than that of the delivery channel. Alternatively even if we suppose a skilled artisan could have chosen a set of dimensions where the cross sectional area of the inlet channel is larger than that of the delivery channel, it would still have been at most obvious to try without any reasonable expectation of success. Therefore, the Office Action fails to make its *prima facie* case of obviousness based on Tech Update. Withdrawal of the rejection is respectfully requested.

2. The rejection of claims 7-9 under 35 U.S.C. § 103(a), as allegedly being obvious over Abaxis Inc is respectfully traversed.

The Office Action states that the cited company brochure fails to teach the channel dimensions, however the specific dimensions recited in the claims would have been obvious to one skilled artisan. Applicants respectfully point out that the cited company brochure is silent as to the cross sectional areas of the inlet channel, delivery channel, and the relationship thereof. The cited company brochure also fails to teach or suggest how to use the dimensions of the cross sectional areas of the inlet channel and delivery channel to facilitate the liquid flow and air escape in the system. In the absence of any teaching or suggestion, it would be undue for one skilled in the art to experiment on his or her own in deciding what would be appropriate cross sectional dimensions for the inlet channel and the delivery channel, especially what would be the suitable relationship and ratio between the inlet channel and the delivery channel. For example, one skilled artisan could have thought that the cross sectional area of the inlet channel should be

the same dimension as that of the delivery channel as indicated in the figure of the cited company brochure, and would not be motivated to try other dimensions.

Even if for the purpose of discussion we suppose that one skilled artisan might have decided to try other dimensions, he or she could have chosen dimensions where the cross sectional area of the inlet channel is smaller than that of the delivery channel. Alternatively even if we suppose a skilled artisan could have chosen a set of dimensions where the cross sectional area of the inlet channel is larger than that of the delivery channel, it would still have been at most obvious to try without any reasonable expectation of success. Therefore, the Office Action fails to make its prima facial case of obviousness based on Abaxis Inc, withdrawal of the rejection is respectfully requested.

Alternatively, applications respectfully submit that the cited disclosure of Abaxis Inc is the disclosure by the inventors of the subject application, not disclosure by another, thus can not be used as basis for the rejection. Specifically, applicants submit that the inventors were employees of Abaxis at the time of the invention and publication of the company brochure. The inventors of the present invention had fully disclosed the present invention to its employer, Abaxis, in making the cited figures of the company brochure. The inventors of the present invention have also assigned the entire interest of the present invention to their employer, Abaxis Inc. Therefore, unless the Examiner can provide any specific evidence to show that the cited figures in the company brochure were made by others that are not inventors of the present invention, it is the applicants' position that the cited figures of the company brochure are inventors' own disclosure, thus can not be used as basis for 103(a) rejection.

3. The rejection of claims 7-9 under 35 U.S.C. § 103(a), as allegedly being obvious over Schembri ('233) or Burd et al ('053) is respectfully traversed.

Applicants respectfully submit that the cited patents and the subject application are commonly owned by one entity, thus can not be used as basis for any rejection under 103(a). Specifically claimed inventions in the '233 patent, '053 patent, and the subject application have been made by employees of Abaxis at the time of the invention and these employees had an contractual obligation to assign the inventions to their employer, Abaxis Inc. As shown in the assignments enclosed herewith, the '233 patent, '053 patent, and the subject application have all been subsequently assigned by the respective inventors to a single assignee, their employer

Abaxis Inc. Since the subject application was filed on April 12, 2001, *i.e.*, after November 29, 1999, the '233 patent and the '053 patent can not be used as basis for any rejections under §103(a) against the subject application according to MPEP §706.02 (I)(1) and (2). Withdrawal of the rejection is respectfully requested.

In view of the amendment and the above remarks, it is submitted that the claims are in condition for allowance and a notice to that effect is respectfully requested. The Examiner is invited to contact Applicants' undersigned representative if there are any questions relating to this application.

Please charge any additional fees, or make any credits, to Deposit Account No. 07-1895.

Respectfully submitted,

Date:

4/18/03

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